

EXHIBIT C

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11 VIDEOCONFERENCE DEPOSITION OF MAKISA UPTON

12 TAKEN ON BEHALF OF THE PLAINTIFF

13 NOVEMBER 4, 2020

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<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE WESTERN DISTRICT OF MISSOURI 3 WESTERN DIVISION 4 TERRI YOLANDA LABLANCE,) 5) 6 Plaintiffs,) 7 vs.) 8) 9 MISSOURI DEPARTMENT OF) Case No. 4:19-cv-00693-BP 10 CORRECTIONS AND CORIZON) 11 HEALTH,) 12) 13 Defendants.) 14 15 ***** 16 VIDEOCONFERENCE DEPOSITION OF MAKISA UPTON 17 TAKEN ON BEHALF OF THE PLAINTIFF 18 NOVEMBER 4, 2020 19 ***** 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES 2 For the Plaintiffs: 3 Mr. Ivan Nugent 4 Krigel & Krigel, P.C. 5 4520 Main Street, Suite 700 6 Kansas City, MO 64111 7 tel: (816)756-5800 8 For Defendant Corizon:- 9 Mr. Michael L. Matula 10 Ogletree Deakins 11 4520 Main Street, Suite 400 12 Kansas City, Missouri 64106 13 tel: (816)471-1301 14 15 For Department of Corrections: 16 Ms. Rachel Jag 17 Assistant Attorney General 18 615 E. 13th Street, Suite 401 19 Kansas City, Missouri 64106 20 tel: (816)889-5000 21 22 Also Present on Zoom: Jenny Meehan 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 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<p style="text-align: right;">Page 5</p> <p>1 IT IS HEREBY STIPULATED AND AGREED, by and</p> <p>2 between counsel for the PLAINTIFF and counsel for the</p> <p>3 DEFENDANTS that this deposition may be taken in</p> <p>4 shorthand by Joann Renee Richardson, Certified Court</p> <p>5 Reporter, and afterwards transcribed into typewriting;</p> <p>6 and the signature of the witness is expressly reserved.</p> <p>7 * * * * *</p> <p>8 MR. VIDEOGRAPHER: We are on the record.</p> <p>9 Today's date is November 4, 2020. And the time is 2:23</p> <p>10 p.m. This is the video-recorded deposition of Makisa</p> <p>11 Upton in the matter of Terri Yolanda LaBlance vs.</p> <p>12 Missouri Department of Corrections and Corizon Health,</p> <p>13 Case No. 4:19-cv-00693, in the United States District</p> <p>14 Court, Western District of Missouri, Western Division.</p> <p>15 This deposition is being held via WebEx video</p> <p>16 conference.</p> <p>17 The reporter's name is Joann Richardson. My</p> <p>18 name is Chris Chandler. I'm the legal videographer.</p> <p>19 We're here with Alaris Litigation Services. This</p> <p>20 deposition is being held via WebEx video conference and</p> <p>21 the court reporter is not present with the witness.</p> <p>22 Would the attorneys present please introduce</p> <p>23 themselves, the parties that they represent, and</p> <p>24 indicate that they stipulate to the terms of this</p> <p>25 deposition.</p>	<p style="text-align: right;">Page 7</p> <p>1 understanding as to why you are here today?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Can you hear me okay?</p> <p>4 A. Yes, sir. It's a little crackly.</p> <p>5 Q. I sound a little crackly?</p> <p>6 A. Yes.</p> <p>7 Q. I have a little bit of a frog in my throat,</p> <p>8 but I don't know if it's the frog or if it's the</p> <p>9 sound.</p> <p>10 A. I think it's the sound. I don't think it's</p> <p>11 the frog.</p> <p>12 Q. All right. I will try to speak loudly. And</p> <p>13 if you can't hear me, will you ask that I repeat my</p> <p>14 question?</p> <p>15 A. Absolutely.</p> <p>16 Q. If you don't understand a question, will you</p> <p>17 also let me know so that I can rephrase it for you?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Is there anyone else in the room with you?</p> <p>20 A. No, sir.</p> <p>21 Q. Can you tell me where you are?</p> <p>22 A. I'm in my home office in Holts Summit,</p> <p>23 Missouri.</p> <p>24 Q. Okay. And can you give me that address,</p> <p>25 please?</p>
<p style="text-align: right;">Page 6</p> <p>1 MR. NUGENT: Good afternoon. Ivan Nugent on</p> <p>2 behalf of the Plaintiff, Terri LaBlance, and we consent</p> <p>3 to the deposition via WebEx and the court reporter and</p> <p>4 witness being in two different locations.</p> <p>5 MS. JAG: My name is Rachel Jag and I'm here</p> <p>6 on behalf of the Department of Corrections. And we</p> <p>7 consent and stipulate to this deposition being done by</p> <p>8 WebEx and the witness and court reporter being in two</p> <p>9 separate locations.</p> <p>10 MR. MATULA: Mike Matula on behalf of</p> <p>11 Defendant Corizon Healthcare. We also consent to the</p> <p>12 deposition proceeding in this fashion.</p> <p>13 MR. VIDEOGRAPHER: Thank you. Will the</p> <p>14 court reporter please swear in the witness? And we may</p> <p>15 proceed.</p> <p>16 MAKISA UPTON,</p> <p>17 being first duly sworn, produced and examined, testified</p> <p>18 as follows:</p> <p>19 EXAMINATION</p> <p>20 QUESTIONS BY MR. NUGENT:</p> <p>21 Q. Good afternoon, Ms. Upton. My name is Ivan</p> <p>22 Nugent and I represent the Plaintiff, Terri</p> <p>23 LaBlance. We are here to take your deposition in a</p> <p>24 case that she has filed against Corizon Health as</p> <p>25 well as the Department of Corrections. Is that your</p>	<p style="text-align: right;">Page 8</p> <p>1 A. 1925 Apartment A, Halifax Road, Holts Summit,</p> <p>2 Missouri 65043.</p> <p>3 Q. Is Holts Summit right outside of Jefferson</p> <p>4 City?</p> <p>5 A. It is. It's just across the river.</p> <p>6 Q. Got it. Let's see. Have you had your</p> <p>7 deposition taken before?</p> <p>8 A. No, sir.</p> <p>9 Q. I'm going to give you some background</p> <p>10 information in addition to what I've already said</p> <p>11 and I think we can get underway here quickly. If</p> <p>12 you need a break, will you let me know?</p> <p>13 A. Yes, sir.</p> <p>14 Q. If you -- I think I've covered most of it</p> <p>15 already, frankly. I've done this a couple of times</p> <p>16 today, so forgive me.</p> <p>17 A. It's all good.</p> <p>18 Q. Oh, you took an oath to tell the truth. Do</p> <p>19 you remember that?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And I assume that you will tell the truth</p> <p>22 today.</p> <p>23 A. Yes, sir.</p> <p>24 MR. NUGENT: Let's go off the record for a</p> <p>25 second.</p>

<p style="text-align: right;">Page 9</p> <p>1 MR. VIDEOGRAPHER: We're going off the</p> <p>2 record at 2:27 p.m.</p> <p>3 (Off the record.)</p> <p>4 _____</p> <p>5 (Back on the record.)</p> <p>6 MR. VIDEOGRAPHER: We are back on the</p> <p>7 record. The time is 2:32 p.m.</p> <p>8 Q. (By Mr. Nugent) All right, Ms. Upton. After</p> <p>9 fixing our technical difficulties, I think we can</p> <p>10 get started now. Okay?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Great. And just to recap, you are under oath.</p> <p>13 And if you can't hear me or there's a technical</p> <p>14 problem, can I trust that you will stop me so we can</p> <p>15 get it fixed?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Awesome. Who do you work for?</p> <p>18 A. I work for Corizon Health.</p> <p>19 Q. How long have you worked for Corizon Health?</p> <p>20 A. Two years.</p> <p>21 Q. When did you start?</p> <p>22 A. October 28th of 2018.</p> <p>23 Q. Where were you working prior to joining</p> <p>24 Corizon?</p> <p>25 A. Napa Auto Parts.</p>	<p style="text-align: right;">Page 11</p> <p>1 Missouri.</p> <p>2 Q. All right. What's that degree in?</p> <p>3 A. Religious education.</p> <p>4 Q. How long have you been in HR?</p> <p>5 A. Oh, gosh, over 13 years.</p> <p>6 Q. All right.</p> <p>7 A. In some form. In some form.</p> <p>8 Q. Can you briefly tell me the different roles</p> <p>9 within HR that you've held?</p> <p>10 A. Uh-huh. I've been in recruiting. I've been</p> <p>11 in benefits. I've been in ethics case management.</p> <p>12 Q. Okay. And you're in HR for Corizon, correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And are you more of a generalist, or do you</p> <p>15 have a particular role like benefits or compensation</p> <p>16 or recruiting like you just mentioned?</p> <p>17 A. I'm a generalist.</p> <p>18 Q. Okay. Prior to COVID-19, did you work in an</p> <p>19 office?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Where was the office that you reported to?</p> <p>22 A. Jefferson City.</p> <p>23 Q. How many employees are in the Jefferson City</p> <p>24 office?</p> <p>25 A. I've never counted. I would say between 20</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. And what did you do for Napa?</p> <p>2 A. I was an HR manager.</p> <p>3 Q. Did you have the know-how?</p> <p>4 A. I do, yes.</p> <p>5 Q. All right. With regard to Corizon, what were</p> <p>6 you hired to do? What was your job title?</p> <p>7 A. Human resources business partner.</p> <p>8 Q. What does that mean?</p> <p>9 A. So we support our employees and our leaders.</p> <p>10 We support on every topic from payroll and</p> <p>11 compensation to benefits to HR allegations that are</p> <p>12 reported to us.</p> <p>13 Q. All right. What did you do for Napa?</p> <p>14 A. Very similar, just at a different level. So I</p> <p>15 managed HR for a group of employees there.</p> <p>16 Q. Okay. Was your move to Corizon a step up</p> <p>17 vertically?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Did it come with more pay than you were</p> <p>20 earning Napa?</p> <p>21 A. A little bit, yes.</p> <p>22 Q. Okay. What's your highest level of education?</p> <p>23 A. I have a bachelor's degree.</p> <p>24 Q. From where?</p> <p>25 A. Southwest Baptist University in Bolivar,</p>	<p style="text-align: right;">Page 12</p> <p>1 and 30, just guessing off the top of my head.</p> <p>2 Q. Thank you. And then do you know approximately</p> <p>3 how many employees are at the Chillicothe Center?</p> <p>4 A. Not at that site particularly. I know all of</p> <p>5 the state, but I don't have them by site yet.</p> <p>6 Q. Okay. How many are in the state?</p> <p>7 A. We have around a thousand.</p> <p>8 Q. Okay. Do you supervise any employees?</p> <p>9 A. No, sir.</p> <p>10 Q. Who do you report to?</p> <p>11 A. I report to Barb Hojer. She's the senior HR</p> <p>12 VP for Corizon Health.</p> <p>13 Q. Can you spell the last name, please?</p> <p>14 A. Absolutely. H-O-J-E-R.</p> <p>15 Q. And her first name was...</p> <p>16 A. Barb.</p> <p>17 Q. Does she go by Barbara?</p> <p>18 A. She goes by Barb.</p> <p>19 Q. Is her real name Barbara?</p> <p>20 A. I have no idea. She's my boss. I'm not</p> <p>21 asking, not at all.</p> <p>22 Q. All right. Do you conduct any training for</p> <p>23 Corizon?</p> <p>24 A. I do.</p> <p>25 Q. What trainings do you conduct?</p>

<p style="text-align: right;">Page 13</p> <p>1 A. I have conducted training on civil treatment.</p> <p>2 I have conducted training on using our HR systems</p> <p>3 for employee database management. I've conducted</p> <p>4 trainings for coaching and corrective action. I</p> <p>5 believe that's all the good ones I can remember off</p> <p>6 the top of my head.</p> <p>7 Q. Okay. And you've been there -- let's see, you</p> <p>8 started in October of '18. So you've been there two</p> <p>9 years, right?</p> <p>10 A. Yes, sir.</p> <p>11 Q. How many of those trainings have you</p> <p>12 conducted?</p> <p>13 A. Oh, goodness. I would say I average at least</p> <p>14 one training a month.</p> <p>15 Q. Okay. And who are you giving those trainings</p> <p>16 to?</p> <p>17 A. It varies. Some of our training we are doing</p> <p>18 for employees. Some we are doing for leaders. So</p> <p>19 it depends on the training and the type of audience</p> <p>20 required.</p> <p>21 Q. When you say "leaders," are those folks that</p> <p>22 supervise other people?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Is the training that's given to leaders or</p> <p>25 supervisors different than the training that's given</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. Is coaching considered discipline at Corizon?</p> <p>2 A. No, sir.</p> <p>3 Q. Then, lastly, you talked about database</p> <p>4 management. What type of information is conveyed in</p> <p>5 that training?</p> <p>6 A. So that is our system where we put in all of</p> <p>7 our new-hire or current employee information, such</p> <p>8 as pay, site that they work at, supervisor name,</p> <p>9 confidential information.</p> <p>10 Q. Any other types of training that you're</p> <p>11 responsible for?</p> <p>12 A. Anything that was related to HR if somebody</p> <p>13 needs something. However, some of our training is</p> <p>14 already pre-created. So I don't create training. I</p> <p>15 just deliver.</p> <p>16 Q. Understood.</p> <p>17 A. So it's an electronic. Sorry. That's the</p> <p>18 word I was looking for.</p> <p>19 Q. Okay. Have you delivered training to Sterling</p> <p>20 Ream?</p> <p>21 A. I believe she was in my civil treatment class.</p> <p>22 Q. Do you recall how long ago that was?</p> <p>23 A. I don't. I have helped conduct trainings</p> <p>24 across the nation, so...</p> <p>25 Q. What about Tammie Christopher, do you recall</p>
<p style="text-align: right;">Page 14</p> <p>1 to employees?</p> <p>2 A. Usually we give a little more information. Or</p> <p>3 information related to managing our system would not</p> <p>4 be something our employees would need. They don't</p> <p>5 input data, so we wouldn't require them to sit</p> <p>6 through that.</p> <p>7 Q. Understood. Can you tell me or describe to me</p> <p>8 what the content is of the civil training course?</p> <p>9 A. Sure. Civil treatment is a course that we</p> <p>10 provide that covers ADA, FMLA, discrimination, and</p> <p>11 harassment.</p> <p>12 Q. I think I misspoke. It's called civil</p> <p>13 treatment, not civil training.</p> <p>14 A. Yes, sir. Uh-huh.</p> <p>15 Q. Thank you.</p> <p>16 A. Not at all.</p> <p>17 Q. And then can you tell me what material is</p> <p>18 covered in the coaching and corrective action</p> <p>19 training?</p> <p>20 A. Sure. We review the policies that we have on</p> <p>21 corrective action, levels, what HR is involved in,</p> <p>22 what HR does not have to be involved in. And then</p> <p>23 coaching, we gave guidance on how to do a coaching</p> <p>24 instead of a corrective action when the behavior</p> <p>25 warrants that.</p>	<p style="text-align: right;">Page 16</p> <p>1 whether or not she has participated in civil</p> <p>2 treatment?</p> <p>3 A. She would have been in the employee training</p> <p>4 class at that time and I don't have a list of who's</p> <p>5 done that yet or not.</p> <p>6 Q. And then with regard to the coaching and</p> <p>7 corrective action training, have you delivered that</p> <p>8 to Sterling Ream?</p> <p>9 A. No. I delivered that to mental health.</p> <p>10 Q. What do you mean when you say you delivered it</p> <p>11 to mental health?</p> <p>12 A. Our mental health leadership team.</p> <p>13 Q. Okay. Do you know whether the leaders at the</p> <p>14 Chillicothe facility have received coaching and</p> <p>15 corrective action training?</p> <p>16 A. I don't know. If they have questions, they</p> <p>17 come to me. They haven't received it from me.</p> <p>18 Q. Understood. Are the materials that are</p> <p>19 delivered electronic or in paper form?</p> <p>20 A. A combination.</p> <p>21 Q. Do you travel to the sites to provide the</p> <p>22 training, or is it done like we are, over Zoom?</p> <p>23 A. It's been a combination of travel, training</p> <p>24 online, as well as in person.</p> <p>25 Q. What type of training have you received</p>

<p style="text-align: right;">Page 17</p> <p>1 yourself in conducting -- excuse me, let me start 2 over. 3 During your two years at Corizon, what 4 training have you received in conducting 5 investigations? 6 A. My first four to six months, I spent -- oh, in 7 conducting investigations? 8 Q. Yes. 9 A. Okay. That's the right answer. I spent 10 training with the HR person that I was replacing, 11 who was taking on other roles. And then I also 12 trained -- actually, that would be it. That would 13 be it for investigations. 14 Q. Prior to joining Corizon, had you received 15 training or education on how to conduct 16 investigations? 17 A. Yes. I went through a HR training at Napa 18 through Wicklander-Zulawski. 19 Q. Can you spell that, please? 20 A. Can I Google it? Is that okay? 21 Q. How about you say it slowly so that our court 22 reporter -- 23 A. Wicklander-Zulawski. And I know it starts 24 Z-U-L-W. And that's the best I've got for you. 25 Q. Okay. Thank you.</p>	<p style="text-align: right;">Page 19</p> <p>1 evidence that I can have, I review all that and 2 determine if -- what interviews may need to take 3 place and, if so, where those need to happen: Can I 4 do them virtually, do they need to see my face, do I 5 need to see their face, can I do it over the phone. 6 You can't always just hop in the car and drive five 7 hours for, you know, a 45-minute-to-an-hour 8 interview. 9 We get statements from any employees that are 10 involved or any DOC officers that may have witnessed 11 anything if they are able to provide. That's 12 working through DOC. 13 Then we review with the site leader as well as 14 the DO, which is the director of operations for that 15 site, the senior director of operations for the 16 state, and usually the VPO to determine what next 17 steps should be taken. 18 If there are any questions, concerns, then I 19 go out to my senior HR leader, Barb, and ask her for 20 her insight or guidance as well. If it's a clear 21 policy violation, if documentation supports it, we 22 take action as appropriate. 23 Q. Thank you. 24 A. Not at all. 25 Q. Throughout today, I may refer back to those</p>
<p style="text-align: right;">Page 18</p> <p>1 A. You're welcome. 2 Q. After the training that you just referenced 3 prior to joining Corizon and the training you 4 received doing your onboarding at Corizon, do you 5 feel like you are well-versed in how to conduct 6 employment discrimination investigations? 7 A. Oh, I don't think anyone is ever 100 percent 8 ready, but I think I have a platform to start off of 9 and I have teammates I can reach out to for 10 assistance. 11 Q. Great. Can you describe for me the process 12 you take in conducting an investigation when someone 13 at Corizon complains of harassment or 14 discrimination? 15 A. Sure. So any time I get an allegation like 16 that, if there's any documentation -- well, first I 17 have to receive the allegation. Once I have 18 received it, then I reach out to anyone who may have 19 documentation, who may know who was a party to it. 20 I talk to the person that reported it if 21 they're available. I don't always reach out if 22 they're no longer employees, or if they're on leave 23 of absence. Of course, legally I have to wait until 24 they return to talk to them. 25 Once I have gathered documentation and any</p>	<p style="text-align: right;">Page 20</p> <p>1 steps. And I want to make sure that I have them 2 written down appropriately so that when I refer back 3 to them, you and I are talking about the same step 4 in the investigation process. Okay? 5 A. Sure. 6 Q. The first thing that I heard was, after 7 receiving the complaint, you gather documentation. 8 That documentation can be gathered from those at the 9 site or whoever might have some; is that fair? 10 A. Yes. 11 Q. The next step is that you interview persons 12 that are either listed as witnesses and/or the 13 complainant themselves, generally people who are 14 still available to you that are employed at Corizon 15 or the DOC; is that right? 16 A. I don't talk to DOC employees. 17 Q. Okay. Thank you. 18 A. I only receive written statements, if they 19 provide them. 20 Q. Okay. I appreciate that clarification. Thank 21 you. 22 A. Not at all. 23 Q. After receiving documentation and interviewing 24 appropriate persons, you then review what you have 25 heard and seen with the appropriate individuals,</p>

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<p style="text-align: right;">Page 21</p> <p>1 whether they are leadership at a site or leadership</p> <p>2 at the state level. Is that accurate?</p> <p>3 A. It always includes the state-level leadership.</p> <p>4 To give a little additional clarification, I provide</p> <p>5 the findings and I support them as they determine a</p> <p>6 level of corrective action.</p> <p>7 Q. Do you make any recommendations with regards</p> <p>8 to corrective action?</p> <p>9 A. I look at historical data and provide that,</p> <p>10 yes, if there is any. If there's not, then we'll</p> <p>11 base it on egregiousness of the behavior or the</p> <p>12 policy violated.</p> <p>13 Q. With regards to looking at the historical</p> <p>14 data, does that come after you've talked to</p> <p>15 everybody and you have all of the universe of</p> <p>16 documents that have been provided?</p> <p>17 A. It comes after I have gathered my information,</p> <p>18 but usually I try to have that before I have that</p> <p>19 meeting with leadership so that if they ask the</p> <p>20 question of, I want to go with a very low level of</p> <p>21 corrective action and somebody hit somebody, we want</p> <p>22 to give them an appropriate --</p> <p>23 Q. Understood. And does the historical data that</p> <p>24 you look at come into play with regards to any</p> <p>25 recommendations that you might give?</p>	<p style="text-align: right;">Page 23</p> <p>1 not have had any involvement, but what I will be</p> <p>2 looking for is whether or not that information is</p> <p>3 used in the historical context that you just</p> <p>4 referenced. All right?</p> <p>5 A. Sure. Absolutely.</p> <p>6 Q. Approximately how many investigations have you</p> <p>7 conducted while employed with Corizon?</p> <p>8 A. That's an excellent question. I don't know</p> <p>9 that I could give you an answer. More than ten, if</p> <p>10 that helps you.</p> <p>11 Q. That really does, big-time.</p> <p>12 A. Because we don't have a way of reporting</p> <p>13 those, so I can't tell you how many I've done. I</p> <p>14 don't know.</p> <p>15 Q. So when you say you don't have a way of</p> <p>16 reporting them, is that -- am I to understand that</p> <p>17 you all do not track the number of investigations</p> <p>18 conducted?</p> <p>19 A. No, sir. At this time I do not have any</p> <p>20 tracking for that.</p> <p>21 Q. Okay. In your opinion, should Corizon track</p> <p>22 the number of investigations they're doing?</p> <p>23 A. In my opinion, any company doing</p> <p>24 investigations would benefit from tracking.</p> <p>25 However, it's not my decision and I would hesitate</p>
<p style="text-align: right;">Page 22</p> <p>1 A. Absolutely.</p> <p>2 Q. And are the leaders that you're discussing</p> <p>3 your recommendation with, are they aware of the</p> <p>4 historical data as you are?</p> <p>5 A. Uh-huh. Usually I have to talk to them to get</p> <p>6 it. We don't have a database.</p> <p>7 Q. Understood. With regards to Ms. LaBlance, how</p> <p>8 many investigations did you conduct that involved</p> <p>9 her either as a witness or a complainant?</p> <p>10 A. Only the one I was informed of March 1st.</p> <p>11 Q. And that was after Ms. LaBlance's employment</p> <p>12 had ended?</p> <p>13 A. Yes, sir. That was the first time I heard her</p> <p>14 name related to a concern.</p> <p>15 Q. Thank you. Had you heard Ms. LaBlance's name</p> <p>16 prior to March 1st?</p> <p>17 A. Only when they asked for approval to backfill</p> <p>18 her position when she was leaving the company.</p> <p>19 Q. And that was the only context?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Thank you.</p> <p>22 A. Not at all.</p> <p>23 Q. At some point I'm going to end up showing you</p> <p>24 documents that are prior to March 1, 2019. I</p> <p>25 recognize that, based on your recent answer, you may</p>	<p style="text-align: right;">Page 24</p> <p>1 to give an opinion for Corizon.</p> <p>2 Q. What would the benefit be of tracking those</p> <p>3 investigations?</p> <p>4 A. Well, for one, a much faster historical search</p> <p>5 rather than calling all HRBPs and asking for</p> <p>6 guidance.</p> <p>7 Q. Having that historical search -- I guess let</p> <p>8 me ask it a different way.</p> <p>9 When people leave, do they take the</p> <p>10 institutional knowledge with them when they leave</p> <p>11 the employment of Corizon?</p> <p>12 A. Oh, absolutely.</p> <p>13 MR. MATULA: Object to the form of the</p> <p>14 question. Go ahead, Makisa.</p> <p>15 A. I'm sorry. Absolutely.</p> <p>16 Q. Did you understand that question?</p> <p>17 A. Yes. You asked if when I leave, I take what I</p> <p>18 know with me.</p> <p>19 Q. As far as you are aware, does Corizon have a</p> <p>20 process by which they secure that historical data</p> <p>21 that might be helpful in conducting investigation?</p> <p>22 MR. MATULA: Object to the form of the</p> <p>23 question.</p> <p>24 A. So if I understand you correctly, is the data</p> <p>25 maintained when someone leaves?</p>

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<p style="text-align: right;">Page 25</p> <p>1 Q. (By Mr. Nugent) Yes.</p> <p>2 A. Yes, it is. And it's saved out for us to be</p> <p>3 able to access if we can find it, if we can find</p> <p>4 what we're looking for, if we have the right search</p> <p>5 function, if we know where we're looking or what</p> <p>6 state we're looking in or things along those lines.</p> <p>7 I can see Missouri stuff if it's out there. I can't</p> <p>8 see the rest of the country for confidentiality.</p> <p>9 Q. Understood. When you say "if it's out there,"</p> <p>10 what does that mean?</p> <p>11 A. If it's stored on our database -- or on our</p> <p>12 system. Excuse me. Not a database, on our system.</p> <p>13 Q. Got it. All right. I think I'm ready to look</p> <p>14 at some documents and let's talk more specifically</p> <p>15 about Ms. LaBlance. All right?</p> <p>16 A. Sure.</p> <p>17 Q. Now, Ms. Upton, I'm going to try and get these</p> <p>18 documents on the screen for you. There are also</p> <p>19 going to be times where I am using two documents at</p> <p>20 a time. I believe I have some of those side by side</p> <p>21 already, so if you need me to zoom in or zoom out,</p> <p>22 you just holler at me. All right?</p> <p>23 A. Sure.</p> <p>24 Q. All right. I believe you mentioned that on</p> <p>25 March 1st, that's when you became aware of</p>	<p style="text-align: right;">Page 27</p> <p>1 Q. Okay. Did Ms. Almanza ask or instruct you to</p> <p>2 conduct an investigation into Ms. LaBlance's</p> <p>3 complaint?</p> <p>4 A. Well, the first question was what action do we</p> <p>5 take. And I explained that we needed to look</p> <p>6 further into it and find out what had happened. So</p> <p>7 we made the decision to go and pull documentation to</p> <p>8 see what could be seen and to go from there.</p> <p>9 Q. Did Ms. Almanza ask you what should be done?</p> <p>10 Is that what I heard? I'm sorry.</p> <p>11 A. Yes, as far as corrective action.</p> <p>12 Q. I see. I guess let me ask it this way. Were</p> <p>13 you instructed to investigate or instructed to</p> <p>14 provide a recommendation?</p> <p>15 A. Well, in the conversation we came to the</p> <p>16 conclusion to look into it and see what was there.</p> <p>17 And that's when we pulled the full audit log --</p> <p>18 well, the DOC pulled it -- and reviewed it and went</p> <p>19 through all the information.</p> <p>20 Q. Who asked the DOC to provide the audit log?</p> <p>21 A. I would assume Rhonda did. I cannot ask for</p> <p>22 that.</p> <p>23 Q. Okay. When did you start -- let me ask it</p> <p>24 this way first. Did you conduct an investigation</p> <p>25 with regards to Ms. LaBlance's complaint?</p>
<p style="text-align: right;">Page 26</p> <p>1 Ms. LaBlance with regards to her complaint of</p> <p>2 individuals accessing her medical records.</p> <p>3 A. Yes, sir.</p> <p>4 Q. How did you become aware of that complaint?</p> <p>5 A. I received a phone call from our VPO and I was</p> <p>6 asked to come to her office for a conversation.</p> <p>7 Q. What does VPO stand for?</p> <p>8 A. Vice president of operations.</p> <p>9 Q. And who was the vice president of operations</p> <p>10 on March 1st?</p> <p>11 A. Rhonda Almanza.</p> <p>12 Q. Thank you. When you went to Ms. Almanza's</p> <p>13 office, what did she say to you?</p> <p>14 A. She let me know that we had received</p> <p>15 communication from Ms. LaBlance that Dr. Epperson</p> <p>16 had sent her a letter that included a picture of her</p> <p>17 and some information from our -- oh, excuse me --</p> <p>18 the DOC's database and that we needed to look into</p> <p>19 it.</p> <p>20 Q. Okay. And prior to today, what documents did</p> <p>21 you review in preparing for your deposition?</p> <p>22 A. Went back over the documents I had provided</p> <p>23 with the request for termination. And then I have</p> <p>24 been shown the full, unedited version of the audit</p> <p>25 log.</p>	<p style="text-align: right;">Page 28</p> <p>1 A. Yes. I looked at who had accessed her file</p> <p>2 and I pulled documentation and it was very clear.</p> <p>3 Q. What was very clear?</p> <p>4 A. Who had been in her file.</p> <p>5 Q. And then after you looked at the documentation</p> <p>6 that was provided, did you interview any witnesses?</p> <p>7 A. No. At that point the documentation was clear</p> <p>8 enough that there was no need to do any interviews.</p> <p>9 It showed very clearly who had been in the file.</p> <p>10 Q. Okay. With regard to who had been in the</p> <p>11 file, did you make any recommendations as to whether</p> <p>12 those individuals should be reprimanded or not?</p> <p>13 A. Yes. I stated they all should be reprimanded</p> <p>14 at some level.</p> <p>15 Q. Okay. And who did you make that</p> <p>16 recommendation to?</p> <p>17 A. So that was a conversation again with the DO,</p> <p>18 which was Jenny Meehan, Rhonda Almanza. I believe</p> <p>19 Cindy Schupp was in the room. And we were</p> <p>20 discussing next steps based on what we had found</p> <p>21 from the audit log.</p> <p>22 Q. All right. In reviewing the data, did you</p> <p>23 look at any historical information as it pertained</p> <p>24 to Ms. LaBlance?</p> <p>25 A. I don't understand. What do you mean,</p>

7 (Pages 25 to 28)

<p style="text-align: right;">Page 29</p> <p>1 historical information?</p> <p>2 Q. I'm going to try to make this larger. Give me</p> <p>3 one second.</p> <p>4 A. Thank you for that.</p> <p>5 Q. You're welcome. I'm going to start at the</p> <p>6 very top for identification purposes. This was</p> <p>7 previously used in depositions and it is marked</p> <p>8 Exhibit 12. I want to draw your attention to</p> <p>9 Corizon 8 of Exhibit 12. It's a memo to Heather</p> <p>10 Dale, Jenny Meehan, Teresa McWhorter on August 29th</p> <p>11 of 2017. My question is, are you familiar with the</p> <p>12 contents of this memo? I'll give you a chance to</p> <p>13 read through?</p> <p>14 A. I'm not familiar with it. I have not seen it.</p> <p>15 And it would not have been something that I would</p> <p>16 have put into the report I received because -- or</p> <p>17 the investigation on the report I received because</p> <p>18 the report I received was only about someone</p> <p>19 accessing her DOC file.</p> <p>20 Q. And so is it, I guess, your opinion that this</p> <p>21 is just simply unrelated and not need to be</p> <p>22 considered in your investigation that was started on</p> <p>23 March 1st?</p> <p>24 A. I'm not sure I understand what you're asking.</p> <p>25 I'm not sure where this behavior in 2017, as</p>	<p style="text-align: right;">Page 31</p> <p>1 investigation in March of 2019, is it your opinion</p> <p>2 that that information wasn't helpful to the</p> <p>3 investigation that you were conducting?</p> <p>4 A. Well, I was conducting an investigation on who</p> <p>5 looked into someone's file, not on any allegation of</p> <p>6 any other behavior. So it would not have been</p> <p>7 pertinent to my investigation at that time.</p> <p>8 Q. Okay. Give me one second. I want to bring up</p> <p>9 another document here.</p> <p>10 A. Okay.</p> <p>11 Q. All right. And let me identify it for record</p> <p>12 purposes, Ms. Upton. One second.</p> <p>13 MR. NUGENT: So I've placed in front of the</p> <p>14 witness what's been used in previous depositions as</p> <p>15 Deposition Exhibit 15. It's Bates-labeled Corizon 20</p> <p>16 through Corizon 24.</p> <p>17 Q. (By Mr. Nugent) And, Ms. Upton, I'm going to</p> <p>18 draw your attention to the bottom of Corizon 23 onto</p> <p>19 the next page, which is Corizon 24. I'm going to</p> <p>20 try to make it a little bigger for you. I'd like</p> <p>21 for you to read the email from Terri LaBlance to</p> <p>22 Sterling Ream, Karen Epperson, Jerry Lovelace, Jenny</p> <p>23 Meehan, and Valicia Kirby. And I'll scroll to the</p> <p>24 next page when you're ready.</p> <p>25 A. Okay. Go ahead. Okay. I've read it.</p>
<p style="text-align: right;">Page 30</p> <p>1 inappropriate as it may be, would have had any</p> <p>2 bearing on two unrelated people looking into</p> <p>3 someone's DOC file. I guess I'm confused by the</p> <p>4 question.</p> <p>5 Q. Understood. That answers the question,</p> <p>6 actually. Thank you.</p> <p>7 A. Okay.</p> <p>8 Q. And to confirm, that was your first time</p> <p>9 seeing that memo; is that right?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Okay. During your investigation in March of</p> <p>12 2019 into Ms. LaBlance's complaint, did Jenny Meehan</p> <p>13 tell you about the incident we just looked at?</p> <p>14 A. The only thing I remember hearing about during</p> <p>15 the investigation was that when Ms. LaBlance left,</p> <p>16 she seemed happy and sent out happy emails, and that</p> <p>17 there had been a couple of incidents that had</p> <p>18 happened prior to my arrival with Corizon and they</p> <p>19 were handled swiftly.</p> <p>20 Q. Okay. Did you know -- who told you that?</p> <p>21 A. I believe it was Jenny. It may have been</p> <p>22 Cindy, but I believe it was Jenny because that's her</p> <p>23 region and we'd worked very closely together,</p> <p>24 typically.</p> <p>25 Q. Okay. When you heard that during your</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Great. Did anyone make you aware of this</p> <p>2 complaint lodged by Ms. LaBlance?</p> <p>3 A. Not until the concern came in -- and, again, I</p> <p>4 didn't know details or specifics -- not until after</p> <p>5 the concern came in in March. But it wasn't</p> <p>6 pertinent to what I was looking into, based on what</p> <p>7 I was told.</p> <p>8 Q. Okay.</p> <p>9 A. And I believe both of these incidents -- and</p> <p>10 I'm trying to catch a date on this one as well.</p> <p>11 Yeah, both of these incidents were prior to my</p> <p>12 employment.</p> <p>13 Q. You are absolutely right about that.</p> <p>14 The individual that Ms. LaBlance was</p> <p>15 complaining about was Judy Harkins. Do you see that</p> <p>16 there?</p> <p>17 A. I do.</p> <p>18 MR. NUGENT: Can we go off the record?</p> <p>19 Thank you.</p> <p>20 MR. VIDEOGRAPHER: We're going off the</p> <p>21 record. The time is 3:08 p.m.</p> <p>22 (Off the record.)</p> <p>23 _____</p> <p>24 (Back on the record.)</p> <p>25 MR. VIDEOGRAPHER: We are back on the</p>

8 (Pages 29 to 32)

<p style="text-align: right;">Page 33</p> <p>1 record. The time is 3:08 p.m.</p> <p>2 Q. (By Mr. Nugent) I've got a few more documents.</p> <p>3 Let's look at -- Ms. Upton, I've put in front of you</p> <p>4 what's been used in depositions previous to today</p> <p>5 and it's been identified as Deposition exhibit 26.</p> <p>6 Have you seen -- I'm going to try to scroll through</p> <p>7 the first couple of pages. And what I'm wondering</p> <p>8 is, have you seen this document before?</p> <p>9 A. I've seen a recent version. But yes.</p> <p>10 Q. Okay. Where would you look to know what</p> <p>11 version this one is?</p> <p>12 A. The best way I can tell you is that the front</p> <p>13 page has changed and the effective date is changed,</p> <p>14 as we have a new CEO.</p> <p>15 Q. What is the effective date of the most recent</p> <p>16 version that you have seen?</p> <p>17 A. I believe 2019.</p> <p>18 Q. Okay. Thank you.</p> <p>19 A. No problem.</p> <p>20 Q. With regard to this version, which has an</p> <p>21 effective date of June 2014, do you recall if this</p> <p>22 was given to you upon your start of employment with</p> <p>23 Corizon?</p> <p>24 A. I had one given. Again, I think it was a more</p> <p>25 recent version than this one. I think there have</p>	<p style="text-align: right;">Page 35</p> <p>1 A. Yes, sir.</p> <p>2 Q. And the second written counseling as the next</p> <p>3 step in the discipline chain?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And then the next step be a final written</p> <p>6 warning?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And then the last step being a recommendation</p> <p>9 for termination?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Within those four steps, I believe you said</p> <p>12 that Corizon reserves the right to skip steps.</p> <p>13 A. Yes.</p> <p>14 Q. All right. And then the subsection that's</p> <p>15 titled Immediate Action and/or Termination, would</p> <p>16 you describe what this section is?</p> <p>17 A. Sure. These are examples for leaders of</p> <p>18 things would require immediate action leading up to</p> <p>19 -- anywhere up to final written or termination.</p> <p>20 Q. Okay.</p> <p>21 A. It's not all-inclusive, but it does give them</p> <p>22 a jumping off point.</p> <p>23 Q. All right. And are these actions that can be</p> <p>24 something less than termination?</p> <p>25 A. Depending on the situation, potentially it</p>
<p style="text-align: right;">Page 34</p> <p>1 been a couple changes since then. But yes. I have</p> <p>2 a paper copy of it in the office.</p> <p>3 Q. All right. And do you know off the top of</p> <p>4 your head what the changes are between this version</p> <p>5 I have in front of you and the one that you're</p> <p>6 familiar with?</p> <p>7 A. I'd have to look at the CEO to tell you if</p> <p>8 that's really what changed. Other than that, I</p> <p>9 would not know without a detailed review.</p> <p>10 Q. Understood. Thank you.</p> <p>11 A. Not at all.</p> <p>12 Q. I want to look at the Corrective Action page,</p> <p>13 which is Bates-labeled Corizon 560 and looks like it</p> <p>14 goes to 563. Would you agree with that?</p> <p>15 A. Yes.</p> <p>16 Q. All right. Sometimes people refer to</p> <p>17 discipline models as progressive discipline models.</p> <p>18 Would you characterize Corizon's corrective action</p> <p>19 plan as a progressive discipline model?</p> <p>20 A. Yes. However, we also have the opportunity to</p> <p>21 skip if necessary, to skip a step. I believe it's</p> <p>22 even in the description of the corrective action</p> <p>23 that it is a progressive counseling plan.</p> <p>24 Q. Right. Would written counseling be referred</p> <p>25 to as the first level of discipline?</p>	<p style="text-align: right;">Page 36</p> <p>1 could be.</p> <p>2 Q. Okay. And then conversely, these are also</p> <p>3 actions that could lead to termination?</p> <p>4 A. Again, potentially. Depending on the</p> <p>5 situation, it could, yes.</p> <p>6 Q. Then this next section here that's on Corizon</p> <p>7 562 -- it's immediately after the Immediate Action</p> <p>8 and/or Termination -- is a section that kind of</p> <p>9 looks like it might be related to even more serious</p> <p>10 acts. How would you describe this section here?</p> <p>11 A. The suspension is something that is used in</p> <p>12 situations where it's an egregious action or it's</p> <p>13 something that requires investigation and it's best</p> <p>14 for all involved parties -- for involved parties to</p> <p>15 be removed from the site temporarily.</p> <p>16 Q. Okay. So this section here, managers, I</p> <p>17 wanted to ask about. Can you explain why discipline</p> <p>18 of managers could be different than discipline of</p> <p>19 employees?</p> <p>20 A. Well, it could be different based on their</p> <p>21 knowledge, based on their involvement as a leader</p> <p>22 and the perception they may create. It could be</p> <p>23 many things, but their position holds greater</p> <p>24 weight.</p> <p>25 Q. And then what are PRN employees?</p>

<p style="text-align: right;">Page 37</p> <p>1 A. PRN are employees who work as needed. So</p> <p>2 they're ones who might pick up a shift if people are</p> <p>3 on vacation, out sick. Or if we're short-staffed</p> <p>4 for whatever reason that week, they would then come</p> <p>5 in and pick up. But they do not work any set hours.</p> <p>6 Q. And this section, Probationary and PRN</p> <p>7 Employees on Corizon 563, it says, "Probationary and</p> <p>8 PRN employees are subject to a modified corrective</p> <p>9 action process which may, at the company's</p> <p>10 discretion, depending on the severity of the issue,</p> <p>11 only include a first written counseling, final</p> <p>12 written warning, and/or recommendation for</p> <p>13 termination."</p> <p>14 How is that for probationary and PRN employees</p> <p>15 different than the rest of the discipline</p> <p>16 conversation for Corizon?</p> <p>17 A. Well, the second written counseling is absent</p> <p>18 from that process.</p> <p>19 Q. Okay. So does that shorten the progressive</p> <p>20 discipline chain for PRN and probationary employees?</p> <p>21 A. It shortens it for probationary. For PRNs, we</p> <p>22 may only see them once every 30 to 90 days. So if</p> <p>23 you only work two days out of 60 and you have two</p> <p>24 infractions, that could make it more serious.</p> <p>25 Q. And then the last paragraph here,</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. All right. Question 1, the abbreviated</p> <p>2 version says, "Identify all persons who provided</p> <p>3 information used in answering one or more of</p> <p>4 Plaintiff's interrogatories to you." And then it</p> <p>5 has a couple of subparts there. One of the answers</p> <p>6 is your name. Do you see that there?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Do you remember which of these you provided</p> <p>9 information for?</p> <p>10 A. Specifically, at this time, no. It's been a</p> <p>11 while.</p> <p>12 Q. There are a couple that I want to talk about.</p> <p>13 A. Sure.</p> <p>14 Q. Number 11. I'll let you read that to</p> <p>15 yourself.</p> <p>16 A. Okay.</p> <p>17 Q. My question, my follow-up to No. 11 is -- let</p> <p>18 me pull up a different document. Give me one</p> <p>19 second.</p> <p>20 Do you see Exhibit 36 in front of you?</p> <p>21 A. Yes.</p> <p>22 Q. All right. Exhibit 36 was also previously</p> <p>23 used in depositions. It is the Terminated Employee</p> <p>24 Files Checklist for Terri LaBlance. Do you see</p> <p>25 that?</p>
<p style="text-align: right;">Page 38</p> <p>1 Institutional Action, can you explain what this</p> <p>2 paragraph is referring to?</p> <p>3 A. Absolutely. Any time the DOC may determine</p> <p>4 that someone is not going to be permitted into their</p> <p>5 institutions any longer. In the event that that</p> <p>6 happens, it's called a gate lock or a gate stop.</p> <p>7 And when we receive notice of that, if we cannot</p> <p>8 allow the person into any other institution and</p> <p>9 they've lost all their institutional access, then we</p> <p>10 have to take different steps. That's not something</p> <p>11 that I have any control over, but we had to have</p> <p>12 something in the policy because it does happen.</p> <p>13 Q. Okay. So if the DOC says you can't come in --</p> <p>14 A. You can't come in. Yeah, they're the boss.</p> <p>15 Q. Understood. Thank you. My next document,</p> <p>16 Ms. Meehan -- I'm sorry, Ms. Upton. My apologies.</p> <p>17 A. Not at all. Jenny's great.</p> <p>18 Q. Is a document that's been provided by Corizon</p> <p>19 and its attorneys. It's been previously used in</p> <p>20 depositions as well and we've marked it as Exhibit</p> <p>21 37. This is titled "Defendant Corizon, LLC's</p> <p>22 Answers and Objections to Plaintiff's First</p> <p>23 Interrogatories." Have you seen this document</p> <p>24 before?</p> <p>25 A. I have.</p>	<p style="text-align: right;">Page 40</p> <p>1 A. I see that.</p> <p>2 Q. Did you fill this document out?</p> <p>3 A. No, sir.</p> <p>4 Q. Okay. Is this a document that the HR</p> <p>5 department at Corizon uses?</p> <p>6 A. It is a document that the sites use. Employee</p> <p>7 files are maintained at the sites. And then when an</p> <p>8 employee leaves the company for any reason, this is</p> <p>9 completed and sent in with their file by the site.</p> <p>10 So it is not something that myself or other HRBPs</p> <p>11 use.</p> <p>12 Q. So this is put together by Corizon personnel</p> <p>13 at various sites throughout the state of Missouri?</p> <p>14 A. Yes.</p> <p>15 Q. If there was an investigation done, would you</p> <p>16 expect to see initials in the box next to</p> <p>17 investigation folder?</p> <p>18 A. No. That would not be housed at the site. If</p> <p>19 there were documents saved, that would be housed</p> <p>20 with the HRBP.</p> <p>21 Q. Okay. And who is the HR VP over --</p> <p>22 A. BP. Excuse me. Business partner, not V.</p> <p>23 Q. Thank you. The HR business partner. Who is</p> <p>24 the HR business partner for the Chillicothe Center?</p> <p>25 A. I have been since October 2018.</p>

10 (Pages 37 to 40)

<p style="text-align: right;">Page 41</p> <p>1 Q. All right. Thank you. Do you now see</p> <p>2 Interrogatory 11 in front of you?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Did you provide information for the answer of</p> <p>5 Interrogatory No. 14?</p> <p>6 A. I believe I did, yes, because I have that data</p> <p>7 in our employee -- our HR database of employee</p> <p>8 information.</p> <p>9 Q. All right. Have you -- do you know whether</p> <p>10 Kelley Chapman is white?</p> <p>11 A. I do not.</p> <p>12 Q. Have you ever spoken to Kelley Chapman?</p> <p>13 A. No, sir.</p> <p>14 Q. Do you know whether or not Kelley Chapman is</p> <p>15 still an employee of Corizon?</p> <p>16 A. I would have to pull a report.</p> <p>17 Q. Thank you. Ms. Upton, have you trained on</p> <p>18 HIPAA by Corizon?</p> <p>19 A. Yes, sir.</p> <p>20 Q. I'm going to give you a chance to read over</p> <p>21 18. Do you recall whether 18 was something that you</p> <p>22 provided information for?</p> <p>23 A. I believe I provided some dates and times, but</p> <p>24 I don't think I provided the entire answer, no. I</p> <p>25 think that was a collaboration.</p>	<p style="text-align: right;">Page 43</p> <p>1 A. Yes, sir.</p> <p>2 Q. All right. I want to start with Jenny's email</p> <p>3 to you, Wednesday, March 13, 2019. She emailed you</p> <p>4 and says, "For your review and approval." What was</p> <p>5 for your review and approval?</p> <p>6 A. HR is required to review and concur with all</p> <p>7 requests for termination.</p> <p>8 Q. So was there an attachment to Jenny's email to</p> <p>9 you?</p> <p>10 A. Yes. It was the initial -- sorry, I'm getting</p> <p>11 some feedback. It was the initial Request for</p> <p>12 Termination document that you see there.</p> <p>13 Q. And then this is your response in which you</p> <p>14 add Cindy Schupp and Rhonda Almanza. Do you see</p> <p>15 that?</p> <p>16 A. Yes, sir.</p> <p>17 Q. "I concur with the RFT." What does RFT mean?</p> <p>18 A. Request for Termination.</p> <p>19 Q. You also say, "Please use this as the official</p> <p>20 copy." Were there drafts of the Recommendation for</p> <p>21 Termination?</p> <p>22 A. There are drafts that do not have the</p> <p>23 signatures on them because we have to print it out</p> <p>24 and have it signed if we're able; however, we can</p> <p>25 also use the email for concurrence as well. We try</p>
<p style="text-align: right;">Page 42</p> <p>1 Q. All right. So if you look at B here under No.</p> <p>2 18, "Which Corizon staff accessed Plaintiff's</p> <p>3 records, the dates the records were accessed, and</p> <p>4 for what purpose." The answer provided says</p> <p>5 Dr. Karen Epperson and Valicia Kirby. Were there</p> <p>6 more employees of Corizon than just Epperson and</p> <p>7 Kirby that accessed Ms. LaBlance's record?</p> <p>8 A. There were.</p> <p>9 Q. Okay. Do you know why that information is not</p> <p>10 present in this answer?</p> <p>11 A. I do not.</p> <p>12 Q. Would you agree that those names should be</p> <p>13 here?</p> <p>14 A. I'm not an attorney. I'd hate to give an</p> <p>15 opinion on that.</p> <p>16 Q. Well, if the question is identify those folks</p> <p>17 from Corizon who accessed the record and you know</p> <p>18 that it was more than just Epperson and Kirby, it</p> <p>19 seems the answer is deficient, right?</p> <p>20 A. It's an assumption on my part.</p> <p>21 Q. Okay. The next document, Ms. Upton, has been</p> <p>22 previously used in depositions and identified as</p> <p>23 Exhibit 39. It is Corizon 940 and -- I'm sorry,</p> <p>24 Corizon 490 and 491. Do you see Exhibit 39 in front</p> <p>25 of you?</p>	<p style="text-align: right;">Page 44</p> <p>1 to get them signed, but if everybody -- like with</p> <p>2 COVID, none of us are sitting in the same place, so</p> <p>3 we use the email.</p> <p>4 Q. And with there being drafts, did any of the</p> <p>5 prior drafts have different language in the Details</p> <p>6 of Current Incident and Reason for Recommending</p> <p>7 Termination?</p> <p>8 A. That's a great question that I don't know off</p> <p>9 the top of my head. It's been too long since I</p> <p>10 reviewed it.</p> <p>11 Q. How would I know if there were drafts?</p> <p>12 A. We would have to look and see if there were</p> <p>13 any in the emails that were sent in. I'm sure Jenny</p> <p>14 sent it to me. I don't delete them, so it would be</p> <p>15 in my email.</p> <p>16 Q. When this was sent to you, was it already</p> <p>17 signed?</p> <p>18 A. No, sir. I get the signatures -- that's my</p> <p>19 signature on the bottom one there. That's the HR</p> <p>20 person.</p> <p>21 Q. Okay. So where it says "HR approval," that's</p> <p>22 your name?</p> <p>23 A. That is.</p> <p>24 Q. And you sent it on March 14th. And whose name</p> <p>25 is that --</p>

<p style="text-align: right;">Page 45</p> <p>1 A. That's Cindy Schupp, the DO. Rhonda was not</p> <p>2 in the office. So Cindy is able to assign in her</p> <p>3 stead. She is one of the three required approvers.</p> <p>4 Q. Okay. So your email was sent at 11:20 p.m.</p> <p>5 So at night?</p> <p>6 A. Yes, sir.</p> <p>7 Q. When did you sign it?</p> <p>8 A. I would have signed it that afternoon. My</p> <p>9 guess would be around 5 or 6 when Cindy and I were</p> <p>10 still there working together, but I couldn't tell</p> <p>11 you what time exactly.</p> <p>12 Q. All right. Well, her email is 7:42 p.m.</p> <p>13 A. Well, there you go. Cindy and I must have</p> <p>14 been working late together that night, which is not</p> <p>15 uncommon for us.</p> <p>16 Q. Understood. So did you sign it between 7:42</p> <p>17 and 11:20?</p> <p>18 A. Yes, sir. I would not send it out without my</p> <p>19 signature on it.</p> <p>20 Q. Understood. Well, your email shows that</p> <p>21 there's an attachment. Do you see that, RFT Valicia</p> <p>22 Kirby?</p> <p>23 A. Yes.</p> <p>24 Q. Jenny's email does not show that there's an</p> <p>25 attachment. So I guess my confusion is, is there a</p>	<p style="text-align: right;">Page 47</p> <p>1 this an uncomfortable place. And based on the</p> <p>2 allegations we received, they were both involved.</p> <p>3 So when we looked into it and were able to confirm</p> <p>4 that, we made the decision that termination was</p> <p>5 appropriate.</p> <p>6 Q. When you say made an uncomfortable place, will</p> <p>7 you describe what you mean by uncomfortable place?</p> <p>8 A. Sure. They sent an email to the -- I'm sorry.</p> <p>9 Not an email, a letter. I'm not accustomed to</p> <p>10 letters anymore. Sent a letter to the former</p> <p>11 employee and made her feel uncomfortable based on</p> <p>12 what they said. And I can't remember exactly what</p> <p>13 was in the letter. Something about, "Please don't</p> <p>14 contact me." And sent her that information and so</p> <p>15 made her feel uncomfortable and like she would not</p> <p>16 be welcome back.</p> <p>17 Q. Okay. Do you know whether or not Ms. Kirby</p> <p>18 talks to other employees about Ms. LaBlance's</p> <p>19 Department of Corrections records?</p> <p>20 A. I don't. Other than Dr. Epperson, I don't</p> <p>21 know who she spoke to.</p> <p>22 Q. All right. If I understand your testimony,</p> <p>23 you don't know whether Dr. Epperson or Ms. Kirby</p> <p>24 talked to other employees about Ms. LaBlance's</p> <p>25 Department of Corrections records?</p>
<p style="text-align: right;">Page 46</p> <p>1 version of this without signatures?</p> <p>2 A. Yes, I have it saved to my computer where I</p> <p>3 worked on it.</p> <p>4 Q. Okay. Did you provide that to your attorneys?</p> <p>5 A. I thought we provided everything that they</p> <p>6 asked me to give them, but it may not be in there.</p> <p>7 But it's exactly the same. You literally print it</p> <p>8 and sign it and send it and don't make edits. If an</p> <p>9 edit is made after, you would have to reprint,</p> <p>10 resign and date and resend.</p> <p>11 Q. Understood. I assume because of your</p> <p>12 signature, you agreed with the recommendation for</p> <p>13 termination; is that accurate?</p> <p>14 A. I supported it, yes.</p> <p>15 Q. Why did you support it?</p> <p>16 A. Based on the policy violation and the behavior</p> <p>17 that Kirby and Epperson took surrounding</p> <p>18 Ms. LaBlance leaving, I felt like it was an</p> <p>19 appropriate action. And speaking with my leadership</p> <p>20 at the time, they agreed and we moved forward.</p> <p>21 Q. When say based on their behavior, what</p> <p>22 behavior did Ms. Kirby take that warranted</p> <p>23 termination?</p> <p>24 A. Ms. Kirby looked into multiple pages multiple</p> <p>25 times and her discussions with Dr. Epperson made</p>	<p style="text-align: right;">Page 48</p> <p>1 A. Right. I only know that they spoke to each</p> <p>2 other about it.</p> <p>3 Q. Did you ask Ms. Kirby in particular -- I'm</p> <p>4 just talking about Ms. Kirby right now. Did you ask</p> <p>5 Ms. Kirby if she talked to anybody?</p> <p>6 A. At that point we made the decision to move</p> <p>7 forward with termination based on the evidence, so</p> <p>8 there was no need to do interviews with her or</p> <p>9 Dr. Epperson at that time.</p> <p>10 Q. Okay. Did you do interviews with anyone else?</p> <p>11 A. No. We determined they would be given a level</p> <p>12 of corrective action that was appropriate, based on</p> <p>13 the DO's discussions with them at the time.</p> <p>14 Q. What does DOO stand for?</p> <p>15 A. Director of operations.</p> <p>16 Q. And do you know who the DOO on March 13th was?</p> <p>17 A. Jenny Meehan.</p> <p>18 Q. Here it says Jenny Meehan was notified on</p> <p>19 March 13, 2019. I'm going to move to a different</p> <p>20 document now.</p> <p>21 A. Okay.</p> <p>22 THE WITNESS: Would this be an appropriate</p> <p>23 time to take a bio break?</p> <p>24 MR. NUGENT: Absolutely.</p> <p>25 THE WITNESS: Thank you.</p>

<p style="text-align: right;">Page 49</p> <p>1 MR. VIDEOGRAPHER: We are going off the</p> <p>2 record. The time is 3:40 p.m.</p> <p>3 (Off the record.)</p> <p>4 _____</p> <p>5 (Back on the record.)</p> <p>6 MR. VIDEOGRAPHER: We are back on the</p> <p>7 record. The time is 3:48 p.m.</p> <p>8 Q. (By Mr. Nugent) All right. Ms. Upton, you</p> <p>9 understand you're still under oath, right?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Do you see 41 front of you?</p> <p>12 A. I'm sorry. Which number? 41, yes.</p> <p>13 Q. Okay. This is a document that was used in</p> <p>14 previous depositions and I believe it's very similar</p> <p>15 to the document we just looked at. This one,</p> <p>16 however, is in relation to Dr. Epperson; would you</p> <p>17 agree?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Approximately the same time Jenny Meehan sends</p> <p>20 you the email, just like with Ms. Kirby, and then</p> <p>21 you respond with an attachment that is presumably</p> <p>22 some version of the page you're looking at right</p> <p>23 now; is that accurate?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay. And to orient everyone, we are on,</p>	<p style="text-align: right;">Page 51</p> <p>1 them. So I will need for you to confirm that we're</p> <p>2 looking at the same document. Okay?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Do you see a document with the exhibit sticker</p> <p>5 on the bottom that says 44?</p> <p>6 A. No, sir, I see a black screen.</p> <p>7 Q. A black screen?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Do you see an Exhibit 44 now?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And is that the only document you see?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay. Great. This is a document that was</p> <p>14 produced by the Department of Corrections and it's</p> <p>15 Bates-labeled MDOC1938 and MDOC1939. I want you to</p> <p>16 note, Ms. Upton, that in the bottom corner it says</p> <p>17 Page 1 of 2. Do you see that?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And then the next page is 2 of 2?</p> <p>20 A. Yes, sir.</p> <p>21 Q. I need to show you something different before</p> <p>22 we can talk about it. Give me one second.</p> <p>23 All right. Do you see Exhibit 43?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Exhibit 43 was previously used in the</p>
<p style="text-align: right;">Page 50</p> <p>1 again, Exhibit 41. The Bates numbers are Corizon</p> <p>2 485 and Corizon 486. Is it safe to assume that</p> <p>3 there's a version of this saved on your hard drive</p> <p>4 without signatures?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Okay. And is that your signature where the HR</p> <p>7 approvals line is?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And is that Cynthia Schupp where the DO signs?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Great. And this is recommending Ms. -- or</p> <p>12 Dr. Epperson for termination, right?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Did you also agree with the recommendation for</p> <p>15 Dr. Epperson?</p> <p>16 A. I supported the termination, yes.</p> <p>17 Q. Why did you support it?</p> <p>18 A. The same reason I supported for Ms. Kirby, the</p> <p>19 access and the treatment of Ms. LaBlance after the</p> <p>20 letter was sent, making it feel as though she might</p> <p>21 not be welcome to return.</p> <p>22 Q. Understood. Ms. Upton, I have some documents</p> <p>23 now that I want to show you. I am going to share my</p> <p>24 screen with you first. I have all of these</p> <p>25 documents opened. I'm going to try to slide to</p>	<p style="text-align: right;">Page 52</p> <p>1 deposition and it is Bates-labeled MDOC1940 through</p> <p>2 1943. I'm going to ask you, Ms. Upton, have you</p> <p>3 seen Exhibit 43 before?</p> <p>4 A. Yes, in talking to Mr. Matula.</p> <p>5 Q. Okay. Prior to talking to your attorney, had</p> <p>6 you seen Exhibit 43?</p> <p>7 A. Not that I remember.</p> <p>8 Q. All right.</p> <p>9 A. Not in its entirety, I should clarify.</p> <p>10 Q. Okay. What parts of Page 43 had you seen?</p> <p>11 A. Page 1 and 2.</p> <p>12 Q. And who provided to you Pages 1 and 2?</p> <p>13 A. Rhonda Almanza.</p> <p>14 Q. Okay. When you received Exhibit 43, did it</p> <p>15 look like this or did it look different?</p> <p>16 A. I believe there was a DOC employee's name on</p> <p>17 there somewhere that was blacked out. But other</p> <p>18 than that, it looked similar to this.</p> <p>19 Q. So to confirm, Exhibit 43 is a total of four</p> <p>20 pages. At the time Ms. Almanza gave it to you, you</p> <p>21 had only seen -- you were only given the first two</p> <p>22 pages; is that accurate?</p> <p>23 A. That is as I recall it.</p> <p>24 Q. And the version that Ms. Almanza gave you also</p> <p>25 had a DOC employee's name blacked out; is that</p>

<p style="text-align: right;">Page 53</p> <p>1 right?</p> <p>2 A. I believe so. For confidentiality, yes.</p> <p>3 Q. Okay. In looking at the second page that you</p> <p>4 were given, which is what we're looking at right</p> <p>5 now, Page 2 of 4, can you identify the Department of</p> <p>6 Corrections employee?</p> <p>7 A. I wouldn't know who it was, no. I would have</p> <p>8 to look at a list of my employees and do process of</p> <p>9 elimination.</p> <p>10 Q. Understood. I'm going to move to a different</p> <p>11 document. Give me one second. One moment, Ms.</p> <p>12 Upton. I apologize for further delay.</p> <p>13 A. No problem.</p> <p>14 Q. Ms. Upton, do you see two documents side by</p> <p>15 side in front of you?</p> <p>16 A. Yes, sir.</p> <p>17 Q. All right. You should have Exhibit 42 and</p> <p>18 Exhibit 43. Do you see that?</p> <p>19 A. Yes, sir.</p> <p>20 Q. All right. We have established that Exhibit</p> <p>21 43, the first two pages of it are what you reviewed.</p> <p>22 However, there was a name blacked out. Exhibit 42</p> <p>23 was produced by your attorneys and I want to get</p> <p>24 some understanding as to what I'm looking at. Okay?</p> <p>25 A. Certainly.</p>	<p style="text-align: right;">Page 55</p> <p>1 files.</p> <p>2 Q. And is that highlighter or were you blacking</p> <p>3 it out?</p> <p>4 A. Epperson was highlighter on Dr. Karen</p> <p>5 Epperson's lines. The rest is blackout because I</p> <p>6 was putting confidential information into an</p> <p>7 employee's file.</p> <p>8 Q. Okay. Were there other employees outside of</p> <p>9 Epperson and Kirby that were reprimanded?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Is there a copy of this type of report from</p> <p>12 those employee files?</p> <p>13 A. Unfortunately, I only got the one paper copy</p> <p>14 and I made one copy and split it between the two</p> <p>15 files. In retrospect, I could have handled that a</p> <p>16 little bit differently. But, no, that is the only</p> <p>17 copy I had. One of two copies I had, I should say.</p> <p>18 Q. So if you blacked out everyone here, how do we</p> <p>19 know who recommended for discipline?</p> <p>20 A. There is an email from me to Jenny with a list</p> <p>21 of names that after I had blacked out, I went back</p> <p>22 and tried to decipher whose names were on the list</p> <p>23 to send for corrective action.</p> <p>24 Q. Okay. Do you know whether you missed anyone?</p> <p>25 A. It is my understanding now that I did miss</p>
<p style="text-align: right;">Page 54</p> <p>1 Q. So on Exhibit 42 -- and I'm going to zoom in a</p> <p>2 little bit -- the top of it says, Audit Log Search</p> <p>3 Results from 1/1/17 to 3/8/2019. Do you see that?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And then on the Exhibit 43, Audit Log Search</p> <p>6 Results from 1/1/2017, to 3/8/2019.</p> <p>7 A. Yes, sir.</p> <p>8 Q. Then if you look under search criteria, we</p> <p>9 have a 20120411 on both 42 and 43. Do you see that?</p> <p>10 A. Yes, sir.</p> <p>11 Q. All right. Lastly, if you look at the bottom</p> <p>12 of 42, Page 1 of 4 and -- sorry, one second -- the</p> <p>13 second page, Page 2 of 4, do you see that?</p> <p>14 A. Yes, sir.</p> <p>15 Q. So at the bottom of Exhibit 42, it looks like</p> <p>16 that's blacked out. Do you see that?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And then there are also other markings on the</p> <p>19 page. I can't tell whether they are highlighter or</p> <p>20 blacked out. Do you recall whether when you</p> <p>21 received it there was this additional information or</p> <p>22 additional coloring on the document?</p> <p>23 A. No. That was done later.</p> <p>24 Q. Okay. Done by who?</p> <p>25 A. I did that when I put it into the employee</p>	<p style="text-align: right;">Page 56</p> <p>1 someone.</p> <p>2 Q. And how did you come to that understanding?</p> <p>3 A. In seeing the un-redacted version, I realized</p> <p>4 that there's an employee that was not given</p> <p>5 corrective action when I compared that to the list</p> <p>6 of names that I provided to Jenny.</p> <p>7 Q. And who was that?</p> <p>8 A. Judy Harkins, I believe, is her name.</p> <p>9 Q. Will Judy Harkins be reprimanded?</p> <p>10 A. I don't have an answer for that. I'm</p> <p>11 discussing that with my senior leadership and legal</p> <p>12 and we will handle that as appropriate based on the</p> <p>13 severity of the action that she took at the time.</p> <p>14 Q. Do you believe that Judy Harkins should be</p> <p>15 reprimanded?</p> <p>16 A. It's not about what I believe. It's about</p> <p>17 following policy.</p> <p>18 Q. Okay. Based on the policy, should Judy</p> <p>19 Harkins be reprimanded?</p> <p>20 A. She should have been reprimanded at the time,</p> <p>21 yes.</p> <p>22 Q. And should she be reprimanded now?</p> <p>23 A. That's a question for legal and my</p> <p>24 supervisors.</p> <p>25 Q. Okay. So you can't answer that?</p>

<p style="text-align: right;">Page 57</p> <p>1 A. I can't answer that. I can tell you that it</p> <p>2 is going to be discussed with them.</p> <p>3 Q. If they asked for your recommendation, what</p> <p>4 would be it be?</p> <p>5 A. My recommendation would be that she violated</p> <p>6 policy and something needs to be done.</p> <p>7 Q. What level of reprimand would you recommend?</p> <p>8 A. Well, having only just found out about this, I</p> <p>9 haven't researched or looked any further into her</p> <p>10 access or what she did or any further -- as you</p> <p>11 might have asked, any historical issues that she may</p> <p>12 have presented. So I have not had a chance to do</p> <p>13 that.</p> <p>14 Q. Prior to your learning that Ms. Harkins had</p> <p>15 accessed Ms. LaBlance's records, do you know whether</p> <p>16 or not Ms. Harkins reported to anyone that she had?</p> <p>17 A. I do not.</p> <p>18 Q. Is this your handwriting where my cursor is?</p> <p>19 A. I believe that is actually Rhonda's. I don't</p> <p>20 write my D's like that.</p> <p>21 Q. Rhonda who?</p> <p>22 A. Almanza.</p> <p>23 Q. Okay. And was that writing on this document</p> <p>24 when she handed it to you?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 59</p> <p>1 A. Yes, sir.</p> <p>2 Q. And the first -- I'm at the bottom of Page 2,</p> <p>3 which would be the oldest in time of a Corizon</p> <p>4 employee who accessed Ms. LaBlance's record. Would</p> <p>5 you agree?</p> <p>6 A. Yes, that is my understanding.</p> <p>7 Q. All right. So based on what you could see</p> <p>8 back in March of 2019, Lori Switzer on April 30th of</p> <p>9 2018 accessed the record, right?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And if we are looking at it, similarly her</p> <p>12 name is one of the ones that's blacked out?</p> <p>13 A. Makes sense.</p> <p>14 Q. And what I can tell you, Ms. Upton, is, I have</p> <p>15 all of the reprimands for people and Ms. Switzer was</p> <p>16 not reprimanded. Do you know why?</p> <p>17 A. I don't believe she was still employed at the</p> <p>18 time this took place.</p> <p>19 Q. Understood. When you were doing your</p> <p>20 investigation, did you call Ms. Switzer?</p> <p>21 A. No.</p> <p>22 Q. Okay. Why not?</p> <p>23 A. I did not conduct any interviews based on the</p> <p>24 data I had provided. It was not necessary. It's --</p> <p>25 they did it.</p>
<p style="text-align: right;">Page 58</p> <p>1 Q. And what was written under the blacked out</p> <p>2 portion here?</p> <p>3 A. I don't remember exactly. I know we went</p> <p>4 through and identified who else had looked and made</p> <p>5 notes. I might be able to read -- I'm sure the top</p> <p>6 three letters are Chillicothe because we were</p> <p>7 identifying Chillicothe employees. Beyond that, I</p> <p>8 couldn't tell you.</p> <p>9 Q. Do you know how you missed Judy Harkins?</p> <p>10 A. I sent out that corrective action for all the</p> <p>11 following employees that were not Dr. Epperson and</p> <p>12 Ms. Kirby after this had been done and was trying to</p> <p>13 do what you just saw I was trying to do there, which</p> <p>14 was go back and read and try not to miss anybody.</p> <p>15 And clearly I missed somebody.</p> <p>16 Q. Can you see what is written here at the top?</p> <p>17 A. I can't read it, no, sir.</p> <p>18 Q. Okay. What about here, either of these two?</p> <p>19 A. I'm sorry, I cannot read it.</p> <p>20 Q. So then let's look at the clean version, which</p> <p>21 should be on the right-hand side. Do you see that?</p> <p>22 A. Uh-huh.</p> <p>23 Q. All right. So when you looked at this for the</p> <p>24 very first time, you only had Pages 1 and 2,</p> <p>25 correct?</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. Does it matter to you when someone accessed</p> <p>2 Ms. LaBlance's record?</p> <p>3 A. Not to my knowledge, it shouldn't matter.</p> <p>4 Q. Okay.</p> <p>5 A. If they were an employee, it shouldn't matter.</p> <p>6 Q. And so if that person is no longer an</p> <p>7 employee, but they accessed the record, do you think</p> <p>8 that that person should be told that Corizon knows</p> <p>9 that they did access the record?</p> <p>10 MR. MATULA: Object to the form of the</p> <p>11 question.</p> <p>12 Q. (By Mr. Nugent) You can answer, Ms. Upton.</p> <p>13 A. I'm not sure why I would call an employee who</p> <p>14 is no longer employed about an investigation that</p> <p>15 was just discovered.</p> <p>16 Q. Okay. Even though the investigation is</p> <p>17 related to HIPAA concerns?</p> <p>18 A. There's no action I can take against that</p> <p>19 employee at this time.</p> <p>20 Q. Are there responsibilities that Corizon has to</p> <p>21 protect individuals whose medical information has</p> <p>22 been accessed?</p> <p>23 A. Yes.</p> <p>24 Q. Does that protection end once an employee</p> <p>25 leaves Corizon's employ?</p>

15 (Pages 57 to 60)

<p style="text-align: right;">Page 61</p> <p>1 MR. MATULA: Object to the form of the</p> <p>2 question, vague. And calling for a legal conclusion.</p> <p>3 Q. (By Mr. Nugent) Ms. Upton, do you understand</p> <p>4 the question?</p> <p>5 A. I'm not sure I understand what you're asking</p> <p>6 as far as Corizon's responsibility to contact former</p> <p>7 employees.</p> <p>8 Q. So I'll be a bit more direct with it. Even</p> <p>9 though Ms. Switzer wasn't an employee of Corizon at</p> <p>10 the time that you found out she accessed a medical</p> <p>11 record, are there any obligations to let Ms. Switzer</p> <p>12 know that she violated HIPAA, even though she's not</p> <p>13 an employee?</p> <p>14 A. Not to my knowledge would I be required to</p> <p>15 contact her, no.</p> <p>16 Q. Understood. And would that go for all</p> <p>17 individuals that are on this list that don't work</p> <p>18 for Corizon anymore?</p> <p>19 A. As far as I understand it, yes.</p> <p>20 Q. Okay. Was it any concern of yours that -- if</p> <p>21 we see here, Lori Switzer was April 30th of 2018 and</p> <p>22 that was about nine months prior to Ms. LaBlance's</p> <p>23 separation from Corizon. Does that concern you at</p> <p>24 all?</p> <p>25 A. I had nothing reported prior. I had no</p>	<p style="text-align: right;">Page 63</p> <p>1 me concern. That's why we handled it the way we</p> <p>2 handled it.</p> <p>3 Q. Okay. Let's look at the two pages you did not</p> <p>4 receive. Do you see the Megan Meyer entry June 12th</p> <p>5 of 2017?</p> <p>6 A. Uh-huh.</p> <p>7 Q. Yes?</p> <p>8 A. Yes, sir. Sorry.</p> <p>9 Q. It's okay. So that is on Page 4 of 4?</p> <p>10 A. Uh-huh.</p> <p>11 Q. And then on Page 3 of 4, the last entry is</p> <p>12 Sterling Ream of December 9, 2017. Do you see that?</p> <p>13 A. Yes, sir.</p> <p>14 Q. My confusion is this: If you were given the</p> <p>15 first two pages, how did you know to reprimand</p> <p>16 Sterling Ream?</p> <p>17 A. I don't remember exactly how that came about,</p> <p>18 but what I do remember is that I believe she told us</p> <p>19 that she had looked at it at some point, when she</p> <p>20 heard we were doing these corrective actions.</p> <p>21 Q. Okay. Do you remember for certain that that's</p> <p>22 what she did?</p> <p>23 A. Not 100 percent. It's been a long time since</p> <p>24 we looked at all of this and talked to all these --</p> <p>25 to the folks we talked to.</p>
<p style="text-align: right;">Page 62</p> <p>1 knowledge of any issues prior. So, no, it didn't</p> <p>2 concern me with the date. It just concerned me that</p> <p>3 it happened.</p> <p>4 Q. Okay. On the two pages that you have --</p> <p>5 A. Uh-huh.</p> <p>6 Q. -- there are nine different Corizon employees</p> <p>7 between April 30th of 2018 and February 22nd of 2019</p> <p>8 that accessed Ms. LaBlance's Department of</p> <p>9 Corrections records. Did that cause you any concern</p> <p>10 about the number of employees who accessed the</p> <p>11 record?</p> <p>12 A. It would have, absolutely. Accessing the</p> <p>13 record is a concern.</p> <p>14 Q. Okay. My question is related to the number of</p> <p>15 Corizon employees who accessed it between April of</p> <p>16 2018 and February of 2019.</p> <p>17 A. I'm concerned any time a record is accessed.</p> <p>18 I don't understand the difference the timeframe</p> <p>19 makes.</p> <p>20 Q. I understand that. But what I'm talking about</p> <p>21 is just the sheer number of Corizon employees, not</p> <p>22 the timeframe. Does the fact that nine employees,</p> <p>23 nine different employees, accessed Ms. LaBlance's</p> <p>24 record cause you any concern?</p> <p>25 A. The number of employees, absolutely it causes</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. Let's see here. I want you to look at Page 4</p> <p>2 of 4 here.</p> <p>3 A. Okay.</p> <p>4 Q. Starts with Carol Holloway and goes down to</p> <p>5 Megan Meyer.</p> <p>6 A. Yes, sir.</p> <p>7 Q. And tell me if any of these individuals still</p> <p>8 work for Corizon, to the best of your knowledge.</p> <p>9 A. I would have to pull a report to look, with</p> <p>10 the exception of Deb Ritter who only recently was</p> <p>11 let go.</p> <p>12 Q. Why was Deb Ritter let go?</p> <p>13 A. Policy violation.</p> <p>14 Q. What was that policy violation?</p> <p>15 A. I would have to go back and look. I can, but</p> <p>16 it would take a minute.</p> <p>17 Q. So Deb Ritter on June 13th looked at</p> <p>18 Ms. LaBlance's information. Do you see that?</p> <p>19 A. Yes. Of 2017.</p> <p>20 Q. And then Deb Ritter did it again on February</p> <p>21 22, 2019?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Now, Ms. Kirby and Ms. Epperson were</p> <p>24 terminated. And remind me why they were terminated.</p> <p>25 A. Again, their behavior -- in addition to the</p>

<p style="text-align: right;">Page 65</p> <p>1 number of pages they looked at, their behavior made</p> <p>2 it to the point that Ms. LaBlance would not feel</p> <p>3 comfortable coming back.</p> <p>4 Q. Did the fact that Ms. Ritter looked at it</p> <p>5 twice weigh in on the recommendation to discipline</p> <p>6 her?</p> <p>7 A. So I believe if you scroll back down to hers,</p> <p>8 it was not in something I was given.</p> <p>9 Q. Would that have been helpful?</p> <p>10 A. All of this information would have been very</p> <p>11 helpful.</p> <p>12 Q. And let's see, in looking at the number of</p> <p>13 employees that accessed Ms. LaBlance's record from</p> <p>14 June of 2017 to February of 2019, in addition to her</p> <p>15 complaint about the racial slur and her complaint</p> <p>16 about Judy Harkins, having all of that information</p> <p>17 now, does that impact your opinion of what was going</p> <p>18 on?</p> <p>19 MR. MATULA: Object to the form of the</p> <p>20 question. Vague.</p> <p>21 Q. (By Mr. Nugent) Do you understand my question?</p> <p>22 A. Not 100 percent. Can you maybe ask it again?</p> <p>23 Q. Yeah, I sure can. When you were given</p> <p>24 Exhibit 43, you were only given the first two pages,</p> <p>25 right?</p>	<p style="text-align: right;">Page 67</p> <p>1 on the environment that Ms. LaBlance was working in?</p> <p>2 MR. MATULA: Object to the form of the</p> <p>3 question. Go ahead.</p> <p>4 A. I don't know that that would have played a</p> <p>5 major part because I don't see any racial contention</p> <p>6 based on what they're looking at here. What I see</p> <p>7 here is someone accessing a file they should not be</p> <p>8 accessing. There was no allegation of that. I do</p> <p>9 not see a behavior here that would pertain to that.</p> <p>10 Ms. LaBlance did not report that to me. She did not</p> <p>11 come forward to me.</p> <p>12 So would it have played into the corrective</p> <p>13 action given to the individuals involved?</p> <p>14 Potentially, yes. Would it have changed how I</p> <p>15 investigated this? Possibly. That's retrospect.</p> <p>16 Q. Understood. Thank you. I've got a couple</p> <p>17 more documents I want to show you, Ms. Upton.</p> <p>18 A. Sure.</p> <p>19 Q. Do you see two documents side by side?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And the one on the left is Exhibit 41. Do you</p> <p>22 see that?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And then on the right. Exhibit 45?</p> <p>25 A. Yes, sir.</p>
<p style="text-align: right;">Page 66</p> <p>1 A. Yes, sir.</p> <p>2 Q. So today you've now seen additional</p> <p>3 information that wasn't given to you when you were</p> <p>4 making your analysis, right?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And part of your analysis was also to give</p> <p>7 recommendations?</p> <p>8 A. Yes, sir.</p> <p>9 Q. In addition, I've shown you now the memo</p> <p>10 related to a racial slur that was used in front of</p> <p>11 Ms. LaBlance. Do you remember that?</p> <p>12 A. Yes, sir.</p> <p>13 Q. We've also looked at the complaint in email</p> <p>14 that Ms. LaBlance wrote to Jenny Meehan. Do you</p> <p>15 remember that?</p> <p>16 A. Yes, sir.</p> <p>17 Q. All right. My question is, when you did this</p> <p>18 investigation into Epperson and Kirby, earlier you</p> <p>19 testified you didn't feel a need to have looked at</p> <p>20 the racial slur investigation packet or the</p> <p>21 complaint filed by Ms. LaBlance, right?</p> <p>22 A. Right. I wouldn't have known about it. There</p> <p>23 would have been nothing to look into.</p> <p>24 Q. And my question now is, if you put all this</p> <p>25 information together, does that impact your opinion</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. Okay. On the left you have the second page of</p> <p>2 Exhibit 41, which is Corizon 46?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Can you see the Details of Current Incident</p> <p>5 clearly?</p> <p>6 A. I can read it mostly.</p> <p>7 Q. Okay. I can try to make it bigger.</p> <p>8 A. Just forgive me for being right up in the</p> <p>9 computer screen.</p> <p>10 Q. You're fine. You're fine. Here's what I want</p> <p>11 you to do. On the left is Dr. Epperson and her</p> <p>12 recommendation for termination.</p> <p>13 A. Yes, sir.</p> <p>14 Q. And on the right is Tammie Christopher's first</p> <p>15 written counseling. Would you read to yourself the</p> <p>16 Details of Current Incident paragraphs on both of</p> <p>17 those? And I'm going to ask you some questions.</p> <p>18 Okay?</p> <p>19 A. I'm sorry, I'm getting some feedback. You</p> <p>20 want me to read both of them?</p> <p>21 Q. Yes, to yourself. And then let me know when</p> <p>22 you're ready.</p> <p>23 A. Thank you. Okay.</p> <p>24 Q. All right. Were you a part of recommending</p> <p>25 the written counseling for Tammie Christopher?</p>

<p style="text-align: right;">Page 69</p> <p>1 A. Yes. I recommended that they receive 2 corrective action and take training. 3 Q. Okay. If I'm looking at these two documents, 4 what's the difference between what Karen Epperson 5 did and what Tammie Christopher did? 6 A. So the difference isn't reflected in what they 7 did in these. The documents have different purpose. 8 Q. All right. What is the different purpose? 9 A. The purpose of a Recommendation for 10 Termination goes to leadership. It does not go to 11 the employee to provide any type of correction. A 12 corrective action is provided to the employee and 13 they are specifically given instruction on how they 14 made an error and how to correct it for the future, 15 as well as any expectations that will be received 16 going forward. 17 So Requests for Terminations are typically 18 extremely brief and to the point, whereas corrective 19 actions, first, second and final are more verbose, 20 for lack of a better word. 21 Q. Is it important that the reasons for 22 recommending termination are accurate? 23 A. Yes. 24 Q. Is it important that the Details of Current 25 Incident that goes to an employee are accurate?</p>	<p style="text-align: right;">Page 71</p> <p>1 report? 2 A. I was -- I did. I don't remember exactly how 3 that went. I just made sure I had what I needed 4 pertinent to the investigation we were conducting. 5 Q. Okay. Do you remember what she said? 6 A. I don't. 7 Q. Did it cause you any concern that you only had 8 two of four pages? 9 A. Not at that time, based on what we were 10 looking into. 11 Q. Looking back on it now, does it cause you any 12 concern that you didn't have those two pages? 13 A. Now I would very much have liked to have had 14 all four pages. 15 Q. And why is that? 16 A. There's information there that could pertain 17 to others who needed to have some training, at the 18 very least, if not corrective action. 19 Q. Okay. In our conversations you mentioned that 20 Judy Harkins was somebody that was left off. I 21 guess my question is this: When you realized you 22 had blacked out the names but needed to go back and 23 figure out who was there, did you have any concern 24 that you might have left someone off then? 25 A. At the time I did not. I thought I had gotten</p>
<p style="text-align: right;">Page 70</p> <p>1 A. Are you speaking on the Request for 2 Termination or on the corrective action? 3 Q. Frankly, both. 4 A. The Request for Termination is not provided to 5 the employee. 6 Q. Is it important that it's accurate? 7 A. Yes, sir. 8 Q. And then what about the document that is 9 provided to the employee? 10 A. Yes, sir. 11 Q. It's important that it's accurate, too, right? 12 A. Yes, sir. 13 Q. All right. Ms. Upton, you were doing your 14 investigation in March of 2019. Were you made aware 15 of whether or not Department of Correction officers 16 had accessed Ms. LaBlance's DOC records? 17 A. Again, the only one I knew was the employee 18 that was blocked off, but I didn't know who for 19 certain or what -- 20 Q. Do you know whether or not someone from 21 Corizon made the Department of Corrections aware 22 that one of their employees had done something also? 23 A. I do not. 24 Q. Did you have a conversation with Ms. Almanza 25 about why you only had the first two pages of a</p>	<p style="text-align: right;">Page 72</p> <p>1 everyone we discussed. 2 Q. Okay. One thing I'm wondering, Ms. Upton, is 3 with the number of individuals who accessed 4 LaBlance's records, looking back on it now, do you 5 think it's worth knowing why those individuals were 6 doing it? 7 A. I'm not sure I understand. I mean, why they 8 looked at the record or why they found out? Or what 9 are you asking? 10 Q. Yeah, why they looked at it. 11 A. It's a policy violation. And so at the time 12 and now, it would still be seen as a policy 13 violation if you're looking at it for any reason. I 14 would handle it as a policy violation unless there 15 was evidence to support an alternative concern. 16 Q. Do you know whether or not LaBlance was the 17 only African American employee at Chillicothe while 18 she was there? 19 A. I have been told that since she left. 20 Q. Okay. If you add that factor into everything 21 we know now with regards to the four pages of 22 Corizon employees looking at her record, does that 23 cause you any concern? 24 A. The same amount of concern I would have -- 25 THE WITNESS: I'm sorry. Go ahead, Mike.</p>

18 (Pages 69 to 72)

<p style="text-align: right;">Page 73</p> <p>1 MR. MATULA: Object to the form of the</p> <p>2 question. Go ahead.</p> <p>3 A. The same amount of concern I would have for</p> <p>4 any employee whose record was accessed</p> <p>5 inappropriately. Every employee has a right to</p> <p>6 privacy.</p> <p>7 Q. (By Mr. Nugent) Regardless of race?</p> <p>8 A. Absolutely.</p> <p>9 Q. I'm going to go back to the list. I forgot to</p> <p>10 ask you something.</p> <p>11 A. Sure.</p> <p>12 Q. I apologize.</p> <p>13 A. It's all right. It's your meeting.</p> <p>14 Q. Do you have Exhibit 43 in front of you?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Okay. And we're looking at MDOC1941, which is</p> <p>17 Page 2 of 4.</p> <p>18 A. Uh-huh.</p> <p>19 Q. And we know that this is one of the documents</p> <p>20 that you received from Ms. Almanza, right?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And this is actually the second of those two</p> <p>23 pages that you received. I'm looking at the second</p> <p>24 entry here. Do you see Jerry Lovelace?</p> <p>25 A. I do.</p>	<p style="text-align: right;">Page 75</p> <p>1 looked at in on February 11th?</p> <p>2 A. I asked him why he was on the audit log. It</p> <p>3 didn't occur to me to ask about the date</p> <p>4 specifically. And he stated that he was asked to</p> <p>5 check and see what he could see.</p> <p>6 Q. Okay. By who?</p> <p>7 A. I don't know. I don't remember.</p> <p>8 Q. Well, did you take notes about -- let me ask a</p> <p>9 different question.</p> <p>10 Was your conversation with Mr. Lovelace a part</p> <p>11 of your investigation?</p> <p>12 A. Yes, because I asked him what could be seen in</p> <p>13 the documentation that people were looking at,</p> <p>14 because I don't have access to the system.</p> <p>15 Q. Makes sense. What was his answer with regards</p> <p>16 to why he looked at it on February 11th?</p> <p>17 A. That he was asked to provide information about</p> <p>18 what could be seen.</p> <p>19 Q. And you didn't follow up with regards to who</p> <p>20 asked him that?</p> <p>21 A. I did not.</p> <p>22 Q. Why?</p> <p>23 A. I don't have a good answer for that. I don't</p> <p>24 know.</p> <p>25 Q. Looking back on it, do you feel like you</p>
<p style="text-align: right;">Page 74</p> <p>1 Q. Now, it says here that Jerry Lovelace accessed</p> <p>2 Ms. LaBlance's record on February 11, 2019. Do you</p> <p>3 see that?</p> <p>4 A. I do.</p> <p>5 Q. And on the same day, Valicia Kirby accessed</p> <p>6 it --</p> <p>7 A. Yes, sir.</p> <p>8 Q. -- six times.</p> <p>9 A. Okay.</p> <p>10 Q. One -- do you see my mouse?</p> <p>11 A. Yes.</p> <p>12 Q. So one, two --</p> <p>13 A. That's Dr. Epperson.</p> <p>14 Q. I'm sorry. One, two, three, four, five.</p> <p>15 A. Five. Okay.</p> <p>16 Q. Five.</p> <p>17 A. Five times.</p> <p>18 Q. I apologize, I was off.</p> <p>19 A. That's all right.</p> <p>20 Q. And in addition, Mr. Lovelace looked at it --</p> <p>21 let's see, after -- so Valicia Kirby looked at it at</p> <p>22 12:58. Lovelace looked at it 2:34 p.m. Do you see</p> <p>23 that?</p> <p>24 A. I do.</p> <p>25 Q. Did you talk to Dr. Lovelace about why he</p>	<p style="text-align: right;">Page 76</p> <p>1 should have?</p> <p>2 A. Yes, knowing that there was an email that came</p> <p>3 in around then now. Potentially, yes.</p> <p>4 Q. And he didn't offer it to you?</p> <p>5 A. No, sir.</p> <p>6 Q. Looking back on it, in your opinion, do you</p> <p>7 believe he should have?</p> <p>8 A. I wish he would have. It would have seemed</p> <p>9 appropriate.</p> <p>10 Q. Was Dr. Lovelace reprimanded?</p> <p>11 A. No, sir.</p> <p>12 Q. Why not?</p> <p>13 A. Based on the fact that -- it was my</p> <p>14 understanding that he was involved in the</p> <p>15 investigation looking into some issues that I was</p> <p>16 not aware of at the time.</p> <p>17 Q. What issues?</p> <p>18 A. That other people had been looking into the</p> <p>19 record.</p> <p>20 Q. So he was doing his own investigation?</p> <p>21 MR. MATULA: I'll object to the form of the</p> <p>22 question.</p> <p>23 A. I was not a part of it. I can't speak to what</p> <p>24 he was doing.</p> <p>25 THE WITNESS: I'm sorry, Mike. I didn't</p>

<p style="text-align: right;">Page 77</p> <p>1 mean to step on you, Mike.</p> <p>2 Q. (By Mr. Nugent) Ms. Upton, this is the first</p> <p>3 I'm hearing about it. And I guess -- when you did</p> <p>4 your investigation, did you and Dr. Lovelace compare</p> <p>5 information?</p> <p>6 A. We talked. He was part of the -- well, he</p> <p>7 brought the actual claim to us because it was sent</p> <p>8 to him, the concern to us. Ms. LaBlance texted him</p> <p>9 a picture of the letter.</p> <p>10 Q. Do you see an email in front of you on the</p> <p>11 left-hand side?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And at the bottom it says Exhibit 33?</p> <p>14 A. Yes, sir.</p> <p>15 Q. All right. So if I zoom this in, do you see</p> <p>16 that it's an email from Lovelace to Almanza?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And what's the date of that email from</p> <p>19 Lovelace to Almanza?</p> <p>20 A. Friday, March 1st.</p> <p>21 Q. Okay. So if we go back to Lovelace's entry,</p> <p>22 when did he look at the record?</p> <p>23 A. February 11th.</p> <p>24 Q. So the time that Lovelace reports this is not</p> <p>25 February 11th; is that right?</p>	<p style="text-align: right;">Page 79</p> <p>1 Q. Okay. Do you know when her last day was?</p> <p>2 A. I believe it was sometime near the end of</p> <p>3 February, somewhere in the 20s.</p> <p>4 Q. Do you know whether or not Mr. Lovelace had a</p> <p>5 conversation with Ms. LaBlance based on whatever it</p> <p>6 was he was looking into?</p> <p>7 A. I'm not aware of anything that he did.</p> <p>8 Q. Did it cause you any concern that Dr. Lovelace</p> <p>9 was aware of this prior to Ms. LaBlance's employment</p> <p>10 ending?</p> <p>11 A. Yes.</p> <p>12 Q. Do you see Exhibit 46 on the right-hand side?</p> <p>13 A. Yes, sir.</p> <p>14 Q. All right. Exhibit 46 is Sterling Ream's</p> <p>15 Corrective Action Form from March 24th of 2019. At</p> <p>16 the time, Ms. Ream was the HSA; is that right?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Do you know what HSA stands for?</p> <p>19 A. Health services administrator.</p> <p>20 Q. Okay. And she was reprimanded, right?</p> <p>21 A. Yes, sir.</p> <p>22 Q. For accessing Ms. LaBlance's Department of</p> <p>23 Correction records, right?</p> <p>24 A. Yes, sir.</p> <p>25 Q. The next exhibit you have is 47. Do you see</p>
<p style="text-align: right;">Page 78</p> <p>1 A. The first time it was reported to me was</p> <p>2 March 1st.</p> <p>3 Q. Okay. And I haven't seen anything that</p> <p>4 suggests that Mr. Lovelace reported it before this</p> <p>5 March 1st email. Are you aware of any report from</p> <p>6 Mr. Lovelace before March 1st?</p> <p>7 A. No. Not from him, no.</p> <p>8 Q. And is it your testimony that Mr. Lovelace was</p> <p>9 doing an investigation prior to your investigation?</p> <p>10 A. Investigation may not be the right word.</p> <p>11 Looking into a concern. I don't know. I wasn't a</p> <p>12 party to that. I would hate to be asked to tell you</p> <p>13 what anyone was doing if I'm not in the room.</p> <p>14 Q. When Ms. Almanza brought you two of four</p> <p>15 pages, did she tell you about Mr. Lovelace's looking</p> <p>16 into anything?</p> <p>17 A. No, sir.</p> <p>18 Q. Would you agree that all that information</p> <p>19 would be relevant to your understanding of what</p> <p>20 you're looking into?</p> <p>21 A. Absolutely.</p> <p>22 Q. I can tell you, Ms. Upton, that as of</p> <p>23 February 11th, Ms. LaBlance was still an employee of</p> <p>24 Corizon. Did you know that?</p> <p>25 A. Yes, I did know that.</p>	<p style="text-align: right;">Page 80</p> <p>1 that on the right-hand side?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Do you see manager's signature there?</p> <p>4 A. Yes.</p> <p>5 Q. Can you make that out? Do you know whose</p> <p>6 signature that is?</p> <p>7 A. It looks like Sterling's signature.</p> <p>8 Q. Okay. Why was Sterling allowed to reprimand</p> <p>9 employees that did the same thing she did?</p> <p>10 A. I was not involved in that decision.</p> <p>11 Q. Does that seem odd to you?</p> <p>12 A. Unless she was the first one reprimanded and</p> <p>13 had been corrected, yes. It would seem odd to me</p> <p>14 any way you slice it. But yes.</p> <p>15 Q. Why would it seem odd to you?</p> <p>16 A. How can she help them be better if she's not</p> <p>17 been trained to do better or corrected when she did</p> <p>18 wrong.</p> <p>19 Q. The next exhibit you have is 48 and it is</p> <p>20 Corizon 1002. Do you see that?</p> <p>21 A. Yes, sir.</p> <p>22 Q. This is for Debbie Ritter?</p> <p>23 A. Okay.</p> <p>24 Q. On the manager's signature, is that Sterling</p> <p>25 Ream?</p>

<p style="text-align: right;">Page 81</p> <p>1 A. Yes, sir.</p> <p>2 Q. The next one is Exhibit 49. It is Corizon</p> <p>3 1004.</p> <p>4 A. Yes, sir.</p> <p>5 Q. Under manager's signature, is that Sterling</p> <p>6 Ream?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And this is a Corrective Action Form for</p> <p>9 Jessica Frizzell, right?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Does it seem odd that Sterling Ream</p> <p>12 reprimanded those folks?</p> <p>13 MR. MATULA: Object to the form of the</p> <p>14 question. Go ahead.</p> <p>15 A. I mean, yes, it does. I feel like we've</p> <p>16 established that.</p> <p>17 Q. (By Mr. Nugent) Well, we hadn't established it</p> <p>18 with the other folks, so I wanted to make sure.</p> <p>19 A. Oh, okay. All right. I just wanted to be</p> <p>20 sure. I just --</p> <p>21 Q. I appreciate that you want to make sure.</p> <p>22 Ms. Upton -- actually, give me one second.</p> <p>23 Sorry.</p> <p>24 A. Sure.</p> <p>25 Q. Ms. Upton, during your investigation, were you</p>	<p style="text-align: right;">Page 83</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2 I, Joann Renee Richardson, CCR, for the State of</p> <p>3 Missouri, do hereby certify that the deposition of</p> <p>4 MAKISA UPTON was held on November 4, 2020, via</p> <p>5 videoconference, State of Missouri, and was held on the</p> <p>6 time and in the place previously described.</p> <p>7</p> <p>8 IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>9 and seal.</p> <p>10</p> <p>11</p> <p>12</p> <p>13 _____</p> <p>14 Joann Renee Richardson, CCR</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 82</p> <p>1 aware that Val Kirby allegedly told Department of</p> <p>2 Correction employees that Ms. LaBlance had DOC</p> <p>3 records?</p> <p>4 A. No.</p> <p>5 Q. Are you aware that Tammie Christopher is</p> <p>6 married to a DOC employee?</p> <p>7 A. I'm sorry, say that again.</p> <p>8 Q. Are you aware that Tammie Christopher is</p> <p>9 married to a DOC employee?</p> <p>10 A. No, sir.</p> <p>11 Q. Ms. Upton, have told you the truth today?</p> <p>12 A. Yes, sir.</p> <p>13 MR. NUGENT: Thanks. I have nothing</p> <p>14 further.</p> <p>15 THE WITNESS: Thank you, sir.</p> <p>16 MS. JAG: I have no questions for Ms. Upton.</p> <p>17 THE WITNESS: Thank you.</p> <p>18 MR. MATULA: I have no questions at this</p> <p>19 time. We'll read and sign.</p> <p>20 MR. VIDEOGRAPHER: We are off the record.</p> <p>21 The time is 4:47 p.m.</p> <p>22 [Deposition concluded at 4:47 p.m.]</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 84</p> <p>1 ALARIS LITIGATION SERVICES</p> <p>2 November 20, 2020</p> <p>3 Mr. Michael L. Matula</p> <p>4 Ogletree Deakins</p> <p>5 4520 Main Street, Suite 400</p> <p>6 Kansas City, Missouri 64111</p> <p>7</p> <p>8 IN RE: TERRI YOLANDA LABLANCE v. MISSOURI</p> <p>9 DEPARTMENT OF CORRECTIONS AND CORIZON HEALTH</p> <p>10</p> <p>11 Dear Mr. Matula,</p> <p>12</p> <p>13 Please find enclosed your copies of the deposition of</p> <p>14 MAKISA UPTON taken on November 4, 2020 in the</p> <p>15 above-referenced case. Also enclosed is the original</p> <p>16 signature page and errata sheets.</p> <p>17</p> <p>18 Please have the witness read your copy of the</p> <p>19 transcript, indicate any changes and/or corrections</p> <p>20 desired on the errata sheets, and sign the signature</p> <p>21 page before a notary public.</p> <p>22</p> <p>23 Please return the errata sheets and notarized</p> <p>24 signature page within 30 days to our office at 711 N</p> <p>25 11th Street, St. Louis, MO 63101 for filing.</p> <p>26</p> <p>27 Sincerely,</p> <p>28</p> <p>29 Joann Renee Richardson</p> <p>30</p>

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22 (Pages 85 to 86)

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